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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,240	03/03/2004	Sumihito Konishi	17518	4767

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SCULLY SCOTT MURPHY & PRESSER, PC
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EXAMINER

SMITH, PHILIP ROBERT

ART UNIT	PAPER NUMBER
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3739

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No.		Applicant(s)	
	10/792,240		KONISHI, SUMIHITO	
	Examiner		Art Unit	
	Philip R. Smith		3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

[01] Objections to the specification are withdrawn.

Claim Objections

[02] Previous objections to the claims are withdrawn in view of the amendments of 12/19/2006. New objections follow.

[03] The deletion and replacement of the terms "first information," "second information," and "third information" in the independent claims requires analogous amendment in the dependent claim to avoid antecedent basis problems. Claim 2 has a particular issue with redundancy.

Claim Rejections - 35 USC § 102

[04] The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

[05] Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Shibata (2004/0044269).

[06] With regard to claims 1, 16-18: As noted in paragraph [8c] of the Office action of 9/21/2006, Shibata discloses an information creating portion ("image filing apparatus 3," [0028]) for creating [a] combined anesthesia-endoscopic image by associating anesthesia information (as noted in paragraph [11] of the Office action of 9/21/06) sent from the anesthesia-apparatus related system ("4") through the transceiver and endoscopic image information detected in the endoscopic system

("2") with a same patient.

Response to Arguments

- [07] Applicant's arguments filed 12/19/2006 have been fully considered but they are not persuasive.
- [08] Applicant contends that "Shibata does not disclose or suggest... an anesthesia apparatus." On the contrary, Shibata discloses a patient monitoring system which may be used to monitor the efficacy of applied anesthetics.
- [09] Applicant further contends that "the endoscopic images [disclosed by Shibata] are not associated with the blood pressure data or pulse rates as is the case in Applicant's claimed invention." Firstly, the term "associate" is so broad as to be anticipated by Fig 2 of Shibata, in which both an "endoscope system" and a "patient monitoring apparatus" are connected to an "image filing apparatus"; the mere fact that they appear in the same figure can be called an "association," in the broadest reasonable interpretation of the term. Secondly, the nature of the association implied in Fig 2 of Shibata is explicitly demonstrated in Fig 11, where endoscopic images and patient data are jointly exhibited in real time and recorded, largely reducing post-operation analysis.

Conclusion

- [10] **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
- [11] A shortened statutory period for reply to this final action is set to expire **THREE**

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MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

- [12] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip R. Smith whose telephone number is (571) 272 6087 and whose email address is philip.smith@uspto.gov. The examiner can normally be reached between 9:00am and 5:00pm.
- [13] If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272 4764.
- [14] Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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SUPERVISORY PATENT EXAMINER
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